

HOUSE BILL REPORT

HB 2471

As Reported by House Committee On:
Commerce & Gaming

Title: An act relating to establishing state preemption of local government regulation of medical marijuana cooperatives.

Brief Description: Preempting local government regulation of medical marijuana cooperatives.

Sponsors: Representatives Kirby, Sawyer, Condotta and Macri.

Brief History:

Committee Activity:

Commerce & Gaming: 1/15/18, 1/16/18 [DP].

Brief Summary of Bill

- Establishes that the State of Washington has sole authority to regulate medical marijuana cooperatives authorized under chapter 69.51A RCW.
- Prohibits counties, cities, and towns from enacting any regulations pertaining to medical marijuana cooperatives absent an express grant of authority from the state.

HOUSE COMMITTEE ON COMMERCE & GAMING

Majority Report: Do pass. Signed by 7 members: Representatives Sawyer, Chair; Kloba, Vice Chair; Condotta, Ranking Minority Member; Vick, Assistant Ranking Minority Member; Blake, Kirby and Ryu.

Minority Report: Do not pass. Signed by 1 member: Representative Jenkin.

Minority Report: Without recommendation. Signed by 1 member: Representative Young.

Staff: Thamas Osborn (786-7129).

Background:

State Preemption and Regulation of Marijuana Businesses by Local Governments.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Under the Washington Constitution, local governments are empowered to adopt "all such local, police, sanitary, and other regulations as are not in conflict with the general laws" (Article XI, section 11). As the result of this constitutional principal, Washington law has developed a strong presumption against finding that state law preempts local ordinances. As a general rule, therefore, local governments may enact ordinances regulating the same subject matter as state laws, provided they do not conflict.

The text of Initiative 502 (I-502) does not address the issue of state preemption of local ordinances or regulations pertaining to the regulation of marijuana-related commerce. Because I-502 is silent regarding the preemption issue, many cities and counties throughout the state have enacted ordinances that either prohibit or impose a moratorium on the siting of licensed marijuana producers, processors, and retailers within their borders. The most recent statistics compiled by the Municipal Research and Service Center indicate that, at present, a total of approximately 77 cities and three counties have enacted such a prohibition or moratorium. Many other cities and counties have enacted special zoning ordinances limiting the location of recreational marijuana businesses to certain areas or have proposed special licensing requirements.

Medical Marijuana Cooperatives.

Qualifying medical marijuana patients or designated providers may form a cooperative for the purpose of growing marijuana plants for personal medical purposes. Members of a medical marijuana cooperative may share responsibility for acquiring and supplying the resources needed to produce and process marijuana only for the medical use of members of the cooperative. No more than four qualifying patients or designated providers may become members of a cooperative and all members must hold valid recognition cards verifying that they are registered in the state medical marijuana database. The recognition card of each cooperative member must be displayed at the premises occupied by the cooperative. All members of the cooperative must be at least age 21. The designated provider of a qualifying patient who is under age 21 may be a member of a cooperative on the qualifying patient's behalf.

All plants grown in the cooperative must be purchased or cloned from a plant purchased from a licensed marijuana producer. In addition, participants may not grow additional plants at their residence, may not divert marijuana out of the cooperative, and must participate in a seed-to-sale traceability system monitored by the Liquor and Cannabis Board (LCB).

Additional requirements include that the cooperative's location:

- must be registered with the LCB;
- must be within a participant's domicile; and
- may not be within one mile of a marijuana retail outlet or within 1,000 feet of specified locations including an elementary or secondary school, playground, recreation center or facility, child care center, or public park, subject to specified exceptions.

Local Government Zoning Prohibitions Pertaining to Medical Marijuana Cooperatives.

A county, city, or town may prohibit marijuana cooperatives from locating within its jurisdictional boundaries through the enactment of an ordinance establishing such prohibition.

Summary of Bill:

The State of Washington has sole authority to regulate medical marijuana cooperatives authorized under chapter 69.51A RCW. Counties, cities, and towns are prohibited from enacting any regulation pertaining to medical marijuana cooperatives absent an express grant of authority from the state.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Medical marijuana cooperatives are an important source of marijuana for many medical marijuana patients. Small growing operations for medical purposes have not given rise to any problems. Local governments should not be allowed to ban cooperatives. Local governments misunderstand the regulatory scheme governing cooperatives and are in need of education.

(Opposed) Marijuana growing operations create big problems in some areas. This bill violates the rights of local governments, which should be allowed to regulate issues of local concern such as marijuana production. Such production can be problematic with respect to unpleasant smells and adverse health reactions among those living near growing operations. The citizens across large areas of the state voted against I-502 and it is therefore unjust to take away all local control. Fifty-two percent of the votes in favor of I-502 came from just three counties.

Persons Testifying: (In support) Representative Kirby, prime sponsor; Jedidiah Haney, Higher Influence; Kirk Luddon, Viper Pac; and Melissa Hysom, Cannabis Freedom March.

(Opposed) Jeniffer Monds; Julie Bussell; and Bill Berkman.

Persons Signed In To Testify But Not Testifying: None.